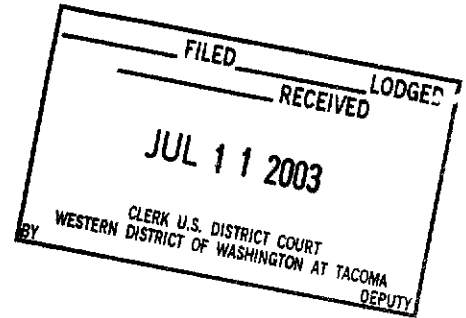


Hon. Franklin D. Burgess



02-CR-06065-STMT



UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

UNITED STATES OF AMERICA,

Plaintiff,

v.

MICHAEL AARON WILSON,

Defendant.

NO. CR02-6065FDB

PLEA AGREEMENT

The United States of America, by and through John McKay, United States Attorney for the Western District of Washington, and Katheryn Kim Frierson, Assistant United States Attorney for said District, and the defendant, Michael Aaron Wilson, and his attorneys, Linda Sullivan and Jerome Kuh, enter into the following Agreement, pursuant to Federal Rule of Criminal Procedure 11(a)(2):

1. The Charge. Defendant, having been advised of the right to have this matter tried before a jury, agrees to waive that right and enter a plea of guilty to production of visual depictions of minors engaged in sexually explicit conduct, as charged in Count 1 of the Superseding Indictment, in violation of Title 18, United States Code, Section 2251(a). By entering the plea of guilty, Defendant hereby waives any and all objections to the form of the charging document.

2. Elements of the Offense. The elements of the offense of production of

1 visual depictions of minors engaged in sexually explicit conduct, in violation of Title  
2 18, United States Code, Section 2251(a) are as follows:

3 First, that Defendant did knowingly employ, use, persuade, induce, entice  
4 or coerce a minor to engage in sexually explicit conduct for the purpose of producing  
5 visual depictions of such conduct; and

6 Second, that the visual depictions were actually transported in interstate or  
7 foreign commerce.

8 3. The Penalties. Defendant understands that the statutory penalties for the  
9 offense of production of visual depictions of minors engaged in sexually explicit  
10 conduct, in violation of Title 18, United States Code, Section 2251(a), is a term of  
11 imprisonment of not less than ten (10) years and up to twenty (20) years, a fine of up to  
12 two hundred and fifty thousand dollars (\$250,000), a period of supervision following  
13 release from prison of up to five (5) years, and a one hundred dollar (\$100.00) penalty  
14 assessment.

15 If the Defendant has one prior conviction under the laws of any State "relating to  
16 the sexual exploitation of children," the statutory penalties for the production of  
17 depictions of minors engaged in sexually explicit conduct, in violation of Title 18,  
18 United States Code, Section 2251(a), is a term of imprisonment of not less than fifteen  
19 (15) years and up to thirty (30) years, a fine of up to two hundred and fifty thousand  
20 dollars (\$250,000), a period of supervision following release from prison of up to five  
21 (5) years, and a one hundred dollar (\$100.00) penalty assessment.

22 Defendant agrees that any monetary penalty the Court imposes, including the  
23 special assessment, fine, costs or restitution, is due and payable immediately, and  
24 further agrees to submit a completed Financial Statement of Debtor form as requested  
25 by the United States Attorney's Office.

26 Defendant understands that supervised release is a period of time following  
27 imprisonment during which he will be subject to certain restrictions and requirements.  
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1 Defendant further understands that if supervised release is imposed and he violates one  
2 or more of its conditions, he could be returned to prison for all or part of the term of  
3 supervised release that was originally imposed. This could result in Defendant serving  
4 a total term of imprisonment greater than the statutory maximum stated above.

5 4. Rights Waived by Pleading Guilty. Defendant understands that by  
6 pleading guilty, he knowingly and voluntarily waives the following rights:

- 7 a. The right to plead not guilty, and to persist in a plea of not guilty;
- 8 b. The right to a speedy and public trial before a jury of Defendant's  
9 peers;
- 10 c. The right to the effective assistance of counsel at trial, including, if  
11 Defendant could not afford an attorney, the right to have the Court appoint one for  
12 Defendant;
- 13 d. The right to be presumed innocent until guilt has been established  
14 at trial, beyond a reasonable doubt;
- 15 e. The right to confront and cross-examine witnesses against  
16 Defendant;
- 17 f. The right to compel or subpoena witnesses to appear on  
18 Defendant's behalf;
- 19 g. The right to testify or to remain silent at trial, which such silence  
20 could not be used against Defendant; and
- 21 h. The right to appeal a finding of guilt or any pretrial rulings.

22 5. Applicability of Sentencing Guidelines. Defendant understands and  
23 acknowledges the following:

- 24 a. The United States Sentencing Guidelines, promulgated by the  
25 United States Sentencing Commission, are applicable to this case;
- 26 b. The Court will determine Defendant's applicable Sentencing  
27 Guidelines range at the time of sentencing;
- 28

1 c. The Court may impose any sentence authorized by law, including a  
2 sentence that, under some circumstances, departs from any applicable Sentencing  
3 Guidelines range up to the maximum term authorized by law;

4 d. The Court is not bound by any recommendation regarding the  
5 sentence to be imposed, or by any calculation or estimation of the Sentencing  
6 Guidelines range offered by the parties, or by the United States Probation Department;  
7 and

8 e. Defendant may not withdraw a guilty plea solely because of the  
9 sentence imposed by the Court.

10 6. Ultimate Sentence. Defendant acknowledges that no one has promised or  
11 guaranteed what sentence the Court will impose.

12 7. Factual Basis. The parties agree on the following facts in support of  
13 Defendant's guilty plea and for purposes of calculating the base offense level of the  
14 Sentencing Guidelines. Defendant admits he is guilty of the charged offense.

15 Between on or about January 2002 and June 2002, Defendant did knowingly  
16 engage in sexually explicit conduct with a minor male, John Doe, age 17, and produced  
17 photographs of such conduct. The photographs depicted the minor male participating in  
18 acts of sexual sadistic or masochistic abuse, including visual depictions of the nude,  
19 minor male being beaten with an electrical instrument, visual depictions of the nude,  
20 minor male with visible marks upon his buttocks of having been beaten, visual  
21 depictions of the nude, minor male tied down and restrained on a surgical table, and  
22 visual depictions of the minor male restrained on a surgical table and wrapped head-to-  
23 foot in plastic wrapping with his genitals exposed. The defendant posted this depiction  
24 and made them available to the public through the Internet on Defendant's website.

25 8. Sentencing Issues. Defendant is aware that the Government will seek at  
26 the time of sentencing a sentencing enhancement pursuant to 18 U.S.C. § 2251(a)(d)  
27 based on Defendant's prior record regarding child pornography from Brazoria County  
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1 Court, Texas, Cause Number 56283M. Defendant disagrees that the prior record  
2 qualifies for the sentencing enhancement. The parties agree that the issue will be  
3 resolved by the Court at the time of sentencing.

4 9. Non-Prosecution of Additional Offenses. As part of this Plea Agreement,  
5 the United States Attorney's Office for the Western District of Washington agrees to  
6 move to dismiss Counts 2 through 4 of the Superseding Indictment at the time of  
7 sentencing and not to prosecute Defendant for any additional offenses known to it as of  
8 the time of this Agreement that are based upon evidence in its possession at this time,  
9 or that arise out of the conduct giving rise to this investigation. In this regard,  
10 Defendant recognizes that the United States has agreed not to prosecute all of the  
11 criminal charges that the evidence establishes were committed by defendant solely  
12 because of the promises made by Defendant in this Agreement. Defendant  
13 acknowledges and agrees, however, that for purposes of preparing the Presentence  
14 Report, the United States Attorney's Office will provide the United States Probation  
15 Office with evidence of all relevant conduct committed by Defendant.

16 Defendant agrees and acknowledges that the charges to be dismissed at the time  
17 of sentencing is based on fact and does not provide the Defendant with a basis for any  
18 future claims as a "prevailing party" under the "Hyde Amendment," Pub.L.No. 105-  
19 119 (1997).

20 10. Post-Plea Conduct. Defendant understands that the terms of this Plea  
21 Agreement apply only to conduct that occurred prior to the execution of this  
22 Agreement. If, after the date of this Agreement, Defendant should engage in conduct  
23 that would warrant an increase in Defendant's adjusted offense level or justify an  
24 upward departure under the Sentencing Guidelines (examples of which include, but are  
25 not limited to: obstruction of justice, failure to appear for a court proceeding, criminal  
26 conduct while pending sentencing, and false statements to law enforcement agents, the  
27 probation officer or Court), the United States is free under this Agreement to seek a  
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1 sentencing enhancement or upward departure based on that conduct.

2 11. Forfeiture. Pursuant to Title 18, United States Code, Section 2253(a),  
3 Defendant agrees to forfeit to the United States immediately all of his right, title and  
4 interest in any and all property, real or personal, that was used, or was intended to be  
5 used, to commit or to promote the commission of the charged offense, and any visual  
6 depiction as described in Title 18, United States Code, Sections 2251 and 2252, which  
7 was produced, transported, mailed, shipped or received in violation of Chapter 110,  
8 United States Code including one full custom-built tower CPU without a serial number,  
9 containing three hard drives with the following respective serial numbers:  
10 WMA8C1183690, WMA8E1331380, and WMA9F1006941.

11 Defendant agrees to fully assist the United States in the forfeiture of the above  
12 listed assets and to take whatever steps are necessary to pass clear title to the United  
13 States, including but not limited to: surrendering title and executing any documents  
14 necessary to effectuate such forfeiture; assisting in bringing any assets located outside  
15 the United States within the jurisdiction of the United States; and taking whatever steps  
16 are necessary to ensure that assets subject to forfeiture are not sold, disbursed, wasted,  
17 hidden, or otherwise made unavailable for forfeiture. Defendant agrees not to file a  
18 claim to any of the listed property in any civil forfeiture proceeding, administrative or  
19 judicial, which may be initiated.

20 12. Right to Appeal. Pursuant to Federal Rules of Criminal Procedure  
21 11(a)(2), the parties herein agree that Defendant reserves the right to appeal the specific  
22 issues raised in his pretrial motion to suppress evidence, filed with the United States  
23 District Court of the Western District of Washington on February 21, 2003, which was  
24 denied by order of the court on July 9, 2003.

25 13. Voluntariness of Plea. Defendant acknowledges that he has entered into  
26 this Plea Agreement freely and voluntarily, and that no threats or promises, other than  
27 the promises contained in this Plea Agreement, were made to induce Defendant to enter  
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1 this plea of guilty.

2       14.   Statute of Limitations. In the event that this Agreement is not accepted  
3 by the Court for any reason, or Defendant has breached any of the terms of this Plea  
4 Agreement, the statute of limitations shall be deemed to have been tolled from the date  
5 of the Plea Agreement to (1) 30 days following the date of non-acceptance of the Plea  
6 Agreement by the Court; or (2) 30 days following the date of breach of the Plea  
7 Agreement by Defendant.

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15. Completeness of Agreement. The United States and Defendant acknowledges that these terms constitute the entire Plea Agreement between the parties. This Agreement only binds the United States Attorney's Office for the Western District of Washington. It does not bind any other United States Attorney's Office or any other office or agency of the United States, or any state or local prosecutor.

DATED: This 11 day of July, 2003.

MICHAEL AARON WILSON  
Defendant

LINDA SULLIVAN  
Attorney for Defendant

**JEROME KUH**  
Attorney for Defendant

SUSAN HARRISON  
Assistant United States Attorney

**KATHERYN KIM FRIERSON**  
Assistant United States Attorney